

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA**

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|----------------------------|---|-----------|
| TYRONE D. MURRY, |) | |
| |) | |
| Plaintiff, |) | |
| |) | |
| |) | |
| |) | |
| v. |) | 1:10CV771 |
| |) | |
| |) | |
| JACOBS TECHNOLOGY and AT&T |) | |
| GOVERNMENT SOLUTIONS, |) | |
| |) | |
| Defendants |) | |

MEMORANDUM

On July 19, 2013, a hearing was held on Plaintiff Tyrone Murry's Application and Request to Proceed In Forma Pauperis on Appeal [Doc. # 130]. The Court denied Mr. Murry's motion at that hearing; this memorandum more thoroughly sets forth the reasons for that disposition.

The federal in forma pauperis statute, now codified at 28 U.S.C. § 1915, "is intended to guarantee that no citizen shall be denied access to the courts 'solely because his poverty makes it impossible for him to pay or secure the costs.'" Nasim v. Warden, Md. House of Corr., 64 F.3d 951, 953 (4th Cir. 1995) (en banc) (quoting Adkins v. E.I. DuPont de Nemours & Co., 335 U.S. 331, 342 (1948)). An affidavit to proceed in forma pauperis is sufficient if it states that a defendant could not, because of poverty, afford the costs of appeal while also providing to

himself and his dependents the “necessities of life.” Adkins, 335 U.S. at 339. “In assessing an application to proceed in forma pauperis, a court may consider the resources that the applicant has or ‘can get’ from those who ordinarily provide the applicant with the ‘necessities of life,’ such as ‘from a spouse, parent, adult sibling or other next friend.’” Fridman v. City of N.Y., 195 F. Supp. 2d 534, 537 (S.D.N.Y. 2002) (quoting Williams v. Spencer, 455 F. Supp. 205, 208–09 (D. Md. 1978)); accord Assaad-Faltas v. University of S.C., 971 F. Supp. 985, 990-91 (D.S.C. 1997). Mr. Murry’s affidavit indicates that he is presently unemployed, helps supports three minor children, and receives only \$520 a month in disability payments from the Veterans Administration. See Doc. # 130, at 2. However, he also acknowledges that he is financially supported by his wife, who earns over \$73,000 annually. Id. Given this financial support, a waiver of costs is not required to guarantee that Mr. Murry is not denied access to the courts because of poverty. It was for this reason that Mr. Murry’s Application [Doc. # 130] was DENIED.

This the 19th day of August 2013

/s/ N. Carlton Tilley, Jr.
Senior United States District Judge